THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos.20360, 17037, 17040, 17047, 17540, 18395, 18443, 18704, 18727, 18878, 18882, 18886, 19016, 19138, 19399, 19418 and
20521 of 2006

29.9.2006

Between:

Penmetsa Venkata Satya Appala Visweswara
Durga Satya Subrahmanya Varma, S/o. V.S.Appala Narasimha Raju
And others

… Petitioners

AND

The Secretary to Government of Andhra Pradesh,
Revenue Department, Secretariat, Hyderabad
And others

… Respondents

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WRIT PETITION Nos.20360, 17037, 17040, 17047, 17540, 18395, 18443, 18704, 18727, 18878, 18882, 18886, 19016, 19138, 19399, 19418 and
20521 of 2006

COMMON ORDER:

All these writ petitions are filed assailing the notification issued under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for brevity) and the declaration issued under Section 6(1) of the Act by the District Collector, West Godavari District. As the common question of law falls for consideration, all the writ petitions were taken up for hearing and disposal, having regard to the submissions made across the Bar. Therefore, it is expedient to dispose of these writ petitions by common order.

The District Collector, West Godavari District, issued notifications under Section 4(1) of the Act during May-July 2006 proposing to acquire the land belonging to the petitioner for a public purpose to wit, for providing house sites to weaker sections under Integrated Novel Development In Rural And Model Municipal Areas (INDIRAMMA) scheme or otherwise. The Revenue Divisional Officer (RDO)

concerned was authorized under Section 3(c) of the Act to conduct enquiry under Section 5-A of the Act. Accordingly some of the petitioners filed detailed objections and some of the petitioners allegedly sent the objections through their representatives. Be that as it is, these objections ranged from the question whether there is an alternative land available in the place where there is a need for provision of house sites in the Village and whether the petitioners or some of them are small farmers etc. The RDO allegedly conducted enquiry and by different endorsements, (which are also impugned in the writ petitions), informed the petitioners that their objections are rejected. As a consequence thereof, the District Collector, West Godavari District, issued declarations under Section 6(1) of the Act, which are also incidentally assailed.

Learned Counsel for the petitioners *inter alia* contend that under Section 5-A of the Act as applicable to State of Andhra Pradesh, even if the RDO is conferred with the power to conduct enquiry, while considering the objections made by the owners of the land, no power vests in the RDO to reject the objections. According to the learned Counsel, the RDO can only send a report to the competent Authority – be it the appropriate Government or the District Collector; who alone is entitled to take appropriate decision before issuing the declaration under Section 6(1) of the Act.

Section 5-A(2) of the Act reads as under.

> **Section 5-A. Hearing of objections:-**
>
> (2) Every objection under sub-section (1) shall be made to the Collector in writing, and the collector shall give the objector an opportunity of being heard in person or by any person authorized by him in this behalf or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under Section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.

A plain reading of the above would show that all the objections made under subsection (1) of Section 5-A of the Act shall be made to the Collector in writing. After receiving the objections, the Collector shall have to give the objector an opportunity of being heard, conduct

enquiry as he thinks necessary and then submit a report to the Government for a decision. Therefore, the RDO or any Revenue Officer exercising powers of Collector as per Section 3(c) or Section 3-A of the Act is only given power to make or submit a report to such Authority, who issued notification under Section 4(1) of the Act. There is no dispute that the Collector is exercising the powers of the Government as delegated under Section 3-A of the Act and, therefore, if one reads the Collector in the place of "appropriate Government" appearing in subsection (2) of Section 5-A of the Act and reads the RDO for "Collector", it becomes abundantly clear that the RDO cannot reject the objections raised by the owners. The limited power given to the RDO under Section 5-A of the Act is to submit a report to the District Collector, who is alone competent to take a decision, which shall be final.

Learned Assistant Government Pleader for Revenue (Land Acquisition) does not seriously dispute the legal position. Admittedly, the RDO considered the objections in some cases and issued endorsements rejecting the objections raised by the petitioners. This is *ex facie* illegal. On this limited ground, declaration under Section 6(1) of the Act challenged in these writ petitions cannot be sustained. Be it noted as held by the Supreme Court in number of cases, the right given under Section 5-A of the Act to the owner of a land to raise objections to the valuable land and consideration of the objections should by an Authority, who is competent to consider the same.

In the result, these writ petitions are disposed of in the following manner.

(i) The declaration under Section 6(1) of the Act in all the writ petitions is quashed;

(ii) All the petitioners are given liberty to make representations/ additional representations raising objections/additional objections within a period of two weeks from the date of receipt of a copy of this order;

(iii) As and when such representations are made as mentioned in clause (ii) above, the concerned RDO shall conduct fresh enquiry after giving an opportunity to all the petitioners, prepare a report and submit the same to the District Collector;

(iv) After receiving the report of the RDO, the District Collector shall take final decision under Section 5-A of the Act before further proceeding under the Act. If any of the petitioners has

any grievance thereafter, they are at liberty to assail the land acquisition proceedings by taking fresh proceedings before the appropriate Forum; and

(v) There shall be no order as to costs.

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(**V.V.S.RAO, J**)

September 29, 2006.

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